



NOTE
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3485/PZ

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Fri: 10/16 - AM

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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AN ACT *to renumber and amend* 13.48 (15); *to amend* 16.72 (2) (e) (intro.),
16.75 (8) (a) 1., 16.75 (10), 16.84 (5), 101.025 (4) (intro.), 101.027 (2), 101.027 (3)
(a) 1., 101.027 (3) (b) 1., 101.65 (1) (a) (intro.) and 119.04 (1); and *to create* 13.48
(2) (jm), 13.48 (15) (b), 16.84 (1m), 16.856, 20.255 (2) (ed), 101.12 (2m), 120.24
and 145.133 of the statutes; **relating to:** energy conservation standards for the
construction of certain buildings, energy and environmental design standards
energy and environmental performance standards for the operation and
for state office facilities, energy and environmental design standards for school
district facilities, operation and maintenance of state office facilities, leasing of
state office facilities, standards for the construction and use of graywater
systems, granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This analysis is not complete. A complete analysis will be provided in a later version.

Currently, with certain exceptions, the Department of Administration (DOA) must ensure that the specifications for each state construction project require the use of recovered and recycled materials to the extent that such use is technically and economically feasible. With certain exceptions, DOA must also prescribe and enforce

energy efficiency standards for energy consuming equipment that is installed in connection with state construction projects. The standards must meet or exceed specified statutory standards. The Building Commission must also apply these standards when entering into certain leases on behalf of the state. Current law also requires the commission to employ a design for cogeneration of steam and electricity in state-owned central steam generating facilities unless the commission determines that such a design is not cost-effective and technically feasible. Currently, the commission must also ensure that state-operated steam generating facilities are designed to allow the use of biomass fuels and refuse-derived fuels to the greatest extent cost-effective and technically feasible. In addition, under current law, the commission is prohibited from approving the construction or major remodeling of or addition to any state building or structure unless the building or structure makes maximum practical use of passive solar energy system design elements and, unless not technically or economically feasible, incorporates an active solar energy system or photovoltaic solar energy system or other renewable energy system.

This bill directs DOA and the Building Commission to ensure that the plans and specifications for each project for the construction of any new state office facility containing at least 10,000 gross square feet of office space, or for the repair, renewal, renovation, or expansion of any existing facility for occupancy by any state entity if the facility contains at least 10,000 gross square feet of enclosed office space and the project affects more than 50 percent of the existing gross square feet of enclosed office space in the facility, conform at a minimum to the silver standard for energy and environmental design in construction projects as prescribed by the U.S. Green Building Council as of the day the bill becomes law. The bill also directs the commission to enforce compliance with the bill's requirements with respect to all new facilities containing at least 10,000 gross square feet of office space that are to be constructed and all existing facilities that are to be repaired, renewed, renovated, or expanded for occupancy by any state entity if the facilities contain at least 10,000 gross square feet of enclosed office space and the repair, renewal, renovation, or expansion affects more than 50 percent of the existing gross square feet of enclosed office space in the facilities, if the facilities are purchased by the state under a purchase agreement or the construction, repair, renewal, renovation, or expansion is performed for the state under a lease agreement with option to purchase.

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Under current law, DOA has managerial responsibility for the operation and maintenance of state office buildings. With certain exceptions, DOA and other state agencies to which DOA delegates purchasing authority must write purchasing specifications that incorporate requirements for the purchase of products made from recycled and recovered materials if their use is technically and economically feasible. DOA and other agencies and certain state authorities making purchases must, to the extent practicable, make purchasing selections using these specifications. Specific requirements for recycled or recovered content also apply, without exception, to all paper purchases by these agencies and authorities. In addition, currently, each state agency that has building or energy management responsibilities must, to the extent

cost-effective and technically feasible, rely upon energy systems that utilize fuels produced in this state.

This bill directs DOA to promulgate, apply, and enforce rules that require the environmentally sustainable operation and maintenance of all state office buildings. The rules must specifically address cleaning, purchasing, waste minimization and recycling, energy and water usage efficiency, and light pollution minimization. The rules supercede existing related requirements and unlike current requirements, apply without exception.

Currently, DOA has responsibility for the negotiation and administration of leases of real property by this state, except as otherwise provided by law. The Building Commission has authority to approve leases of real property by the state, except as otherwise provided by law. This bill directs DOA, before entering into any lease, or renewing or extending any lease, for improved real property to be used for office facilities, to require the prospective lessor to disclose the energy use intensity for the total property and the annual energy usage for the total property, calculated in accordance with Energy Star standards, as prescribed by the U.S. Environmental Protection Agency on the day the bill becomes law, and to verify and forward that information to the Building Commission. The bill also directs DOA to require other state agencies that have authority to enter into leases for improved real property to obtain and forward the same information to the Building Commission before entering into, or renewing or extending, any lease for real property to be used for office facilities. The bill then prohibits the Building Commission from approving any lease for improved real property to be used for office facilities unless DOA certifies to the commission that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards. In addition, the bill directs the Building Commission to require other state agencies that have authority to enter into leases for improved real property, to certify to the commission, before entering into, or renewing or extending, any lease for real property to be used for office facilities, that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.48 (2) (jm) of the statutes is created to read:

2 13.48 (2) (jm) 1. The building commission shall not approve the design or
3 construction of any project for the construction of any facility for a board, agency,
4 officer, department, commission, or body corporate, if the facility after construction
5 will contain at least 10,000 gross square feet of office space for occupancy by any such

SECTION 1

entity, or for the repair, renewal, renovation, or expansion of any existing facility for occupancy by any such entity if the facility contains at least 10,000 gross square feet of enclosed office space and the project affects more than 50 percent of the existing gross square feet of enclosed office space in the facility, regardless of the funding source of the project, unless the department of administration certifies that the project conforms at a minimum to the LEED silver standard, as defined in s. 16.856 (1) (b), for construction projects.

2. The building commission shall not enter into an agreement for the purchase of or for the lease of, or renewal of a lease of, with option to purchase, any facility that is constructed or to be constructed for occupancy by any board, agency, officer, department, commission, or body corporate, if the facility after construction will contain at least 10,000 gross square feet of office space for occupancy by any such entity, or any facility that is to be repaired, renewed, renovated, or expanded for occupancy by any such entity if the facility contains at least 10,000 gross square feet of enclosed office space and the repair, renewal, renovation, or expansion affects more than 50 percent of the existing gross square feet of enclosed office space in the facility, regardless of the funding source of the agreement, unless the department of administration certifies that the facility conforms or will after construction, repair, renewal, renovation or expansion conform at a minimum to the LEED silver standard, as defined in s. 16.856 (1) (b), for construction projects.

SECTION 2. 13.48 (15) of the statutes is renumbered 13.48 (15) (a) and amended to read:

13.48 (15) (a) Subject to the requirements of par. (b) and s. 20.924 (1) (i), the building commission shall have the authority to acquire leasehold interests in land and buildings where such authority is not otherwise provided to an agency by law.

1 **SECTION 3.** 13.48 (15) (b) of the statutes is created to read:

2 13.48 **(15)** (b) 1. In this paragraph, "Energy Star standards" means the
3 standards prescribed by the U.S. Environmental Protection Agency under 42 USC
4 7403 (g) for energy usage in buildings that are in effect on the effective date of this
5 subdivision [LRB inserts date].

6 2. The building commission shall not approve the leasing of, or the renewal or
7 extension of any lease for, property for use as office facilities by this state unless the
8 department of administration has certified to the commission that the energy use
9 intensity for the total property and the annual energy usage for the total property
10 conform to Energy Star standards. The commission shall also require other
11 agencies, as defined in s. 16.70 (1e), that have authority to lease real property, to
12 certify to the commission, before entering into, or renewing or extending, any lease
13 of property to be used for office facilities, that the energy use intensity for the total
14 property and the annual energy usage for the total property conform to Energy Star
15 standards.

16 **SECTION 4.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

17 16.72 **(2)** (e) (intro.) In ~~Except as otherwise provided in this paragraph, in~~
18 writing the specifications under this subsection, the department and any other
19 designated purchasing agent under s. 16.71 (1) shall incorporate requirements for
20 the purchase of products made from recycled materials and recovered materials if
21 ~~their use is technically and economically feasible~~. Each authority other than the
22 University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River
23 Remediation Authority, and the Health Insurance Risk-Sharing Plan Authority, in
24 writing specifications for purchasing by the authority, shall incorporate
25 requirements for the purchase of products made from recycled materials and

SECTION 4

1 recovered materials if ~~their use is technically and economically feasible.~~ Except as
2 otherwise required in a rule promulgated under s. 16.84 (1m), the requirements
3 under this paragraph do not apply if the department, purchasing agent, or authority
4 determines that the use of products made from recycled and recovered materials
5 would not be technically and economically feasible. The specifications shall include
6 requirements for the purchase of the following materials:

7 **SECTION 5.** 16.75 (8) (a)1. of the statutes is amended to read:

8 16.75 (8) (a) 1. The Except as otherwise provided in this subdivision, the
9 department, any other designated purchasing agent under s. 16.71 (1), any agency
10 making purchases under s. 16.74, and each authority other than the University of
11 Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation
12 Authority, and the Health Insurance Risk-Sharing Plan Authority shall, ~~to the~~
13 ~~extent practicable,~~ make purchasing selections using specifications developed under
14 s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and
15 recovered materials. Except as otherwise required in a rule promulgated under s.
16 16.84 (1m), the requirements under this subdivision do not apply to the extent that
17 the department, purchasing agent, agency, or authority determines that meeting
18 those requirements would not be practicable.

19 **SECTION 6.** 16.75 (10) of the statutes is amended to read:

20 16.75 (10) ~~An~~ Except as otherwise provided in this subsection, an agency that
21 has building, fleet or energy management responsibilities shall, ~~to the extent~~
22 ~~cost-effective and technically feasible,~~ rely upon energy systems that utilize fuels
23 produced in this state. Except as otherwise required in a rule promulgated under s.
24 16.84 (1m), the requirements under this subsection do not apply to the extent that
25 the agency having responsibility for compliance with this subsection determines that

1 meeting those requirements would not be cost-effective or technically feasible. In
2 reviewing bids for the purchase of fuels or energy systems or equipment, the agency
3 shall purchase fuel or energy systems or equipment produced in this state if the cost
4 of the lowest responsible bid for such fuel or energy systems or equipment is no
5 greater than the lowest responsible bid for fuel or energy systems or equipment
6 produced outside of this state.

7 **SECTION 7.** 16.84 (1m) of the statutes is created to read:

8 16.84 **(1m)** Promulgate, apply, and enforce rules that require, without
9 exception, the environmentally sustainable operation and maintenance of all state
10 office buildings. The rules shall specifically address cleaning, purchasing, waste
11 minimization and recycling, energy and water usage efficiency, and light pollution
12 minimization.

13 **SECTION 8.** 16.84 (5) of the statutes is amended to read:

14 16.84 **(5)** Have responsibility, subject to approval of the governor, for all
15 functions relating to the leasing, acquisition, allocation and utilization of all real
16 property by the state, except where such responsibility is otherwise provided by the
17 statutes. In this connection, the Prior to entering into any lease, or renewing or
18 extending any lease, for property to be used for office facilities, the department shall
19 require the prospective lessor to disclose the energy use intensity for the total
20 property, measured on a square foot basis, and the annual energy usage for the total
21 property, calculated in accordance with Energy Star standards, as defined in s. 13.48
22 (15) (b), and shall verify and certify this information to the building commission
23 before the commission considers approval of the lease, or the renewal or extension
24 of the lease. The department shall also require other agencies, as defined in s. 16.70
25 (1e), that have authority to enter into leases for real property to obtain, verify, and

SECTION 8

1 certify the same information to the commission before entering into any lease, or
2 renewing or extending any lease, for property to be used for office facilities. The
3 department shall, with the governor's approval, require physical consolidation of
4 office space utilized by any executive branch agency having fewer than 50 authorized
5 full-time equivalent positions with office space utilized by another executive branch
6 agency, whenever feasible. The department shall lease or acquire office space for
7 legislative offices or legislative service agencies at the direction of the joint
8 committee on legislative organization. In this subsection, "executive branch agency"
9 has the meaning given in s. 16.70 (4).

10 SECTION 9. 16.856 of the statutes is created to read:

11 **16.856 Energy and environmental design standards for state office**

12 **facilities. (1)** In this section:

13 ~~(a)~~ ^(a) "Agency" has the meaning given in s. 16.70(1e).
14 ~~(b)~~ ^(b) "Major office construction project" means a project for the construction of
15 a state building that will, upon completion of the project, contain at least 10,000 gross
16 square feet of enclosed office space or for the repair, renewal, renovation, or
17 expansion of an existing state building containing at least 10,000 gross square feet
18 of enclosed office space that affects more than 50 percent of the existing gross square
19 feet of enclosed office space in that building.

20 ~~(c)~~ ^(c) "LEED building rating system" means the rating system of the U.S. Green
21 Building Council designated as the leadership in energy and environmental design
22 system or its successor system as determined by the department.

23 ~~(d)~~ ^(d) "LEED silver standard" means the LEED building rating system standard
24 designated by the U.S. Green Building Council as the silver standard in effect on the
25 effective date of this paragraph [LRB inserts date], or its successor standard as
determined by the department.

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1 (2) The department shall ensure that the plans and specifications for each
2 major office construction project conform at a minimum to the LEED silver standard
3 of construction.

4 **SECTION 10.** 20.255 (2) (ed) of the statutes is created to read:

5 20.255 (2) (ed) *LEED fees.* A sum sufficient to pay LEED registration and
6 certification fees on behalf of school districts under s. 120.24.

7 **SECTION 11.** 101.025 (4) (intro.) of the statutes is amended to read:

8 101.025 (4) (intro.) For ventilation systems in public buildings and places of
9 employment, the department shall ~~adopt~~ promulgate rules ~~setting that incorporate~~
10 standard 62.1-2007 of the American Society of Heating, Refrigerating and Air
11 Conditioning Engineers and that set all of the following:

12 **SECTION 12.** 101.027 (2) of the statutes is amended to read:

13 101.027 (2) The department shall review the energy conservation code and
14 shall promulgate rules that change the requirements of the energy conservation code
15 to improve energy conservation. No rule may be promulgated that has not taken into
16 account the cost of the energy conservation code requirement, as changed by the rule,
17 in relationship to the benefits derived from that requirement, including the
18 reasonably foreseeable economic and environmental benefits to the state from any
19 reduction in the use of imported fossil fuel. The proposed rules changing the energy
20 conservation code shall be submitted to the legislature in the manner provided under
21 s. 227.19. In conducting a review under this subsection, the department shall
22 ~~consider incorporating~~ incorporate, into the energy conservation code, design
23 requirements from standard 90.1-2007 of the most current national energy
24 efficiency design standards, including the International Energy Conservation Code
25 ~~or an energy efficiency code other than the International Energy Conservation Code~~

1 if that energy efficiency code is used to prescribe design requirements for the purpose
2 of conserving energy in buildings and is generally accepted and used by engineers
3 and the construction industry American Society of Heating, Refrigerating and Air
4 Conditioning Engineers.

5 **SECTION 13.** 101.027 (3) (a) 1. of the statutes is amended to read:

6 101.027 (3) (a) 1. A revision of standard 90.1-2007 of the International Energy
7 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
8 Engineers is published.

9 **SECTION 14.** 101.027 (3) (b) 1. of the statutes is amended to read:

10 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
11 revision of standard 90.1-2007 of the International Energy Conservation Code
12 American Society of Heating, Refrigerating and Air Conditioning Engineers is
13 published, the department shall complete its review of the energy conservation code,
14 as defined in sub. (1), and submit to the legislature proposed rules changing the
15 energy conservation code, as defined in sub. (1), no later than 18 months after the
16 date on which the revision of standard 90.1-2007 of the International Energy
17 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
18 Engineers published.

19 **SECTION 15.** 101.12 (2m) of the statutes is created to read:

20 101.12 (2m) The department may not approve or accept essential drawings,
21 calculations, specifications, or plans for public buildings, public structures, or places
22 of employment unless the drawings, calculations, specifications, and plans conform
23 at a minimum to standard 189 of the American Society of Heating, Refrigeration and
24 Air Conditioning Engineers.

***NOTE: Because standard 189 is not yet final, the reference to this standard in this provision does not include a publication year. This raises a constitutional question about whether the reference to a nonfinal standard of a private organization is an improper delegation of legislative authority to that private organization.

1 **SECTION 16.** 101.65 (1) (a) (intro.) of the statutes is amended to read:

2 101.65 (1) (a) (intro.) Exercise jurisdiction over the construction and inspection
3 of new dwellings by passage of ordinances, provided such ordinances meet the
4 requirements of the one- and 2-family dwelling code adopted in accordance with this
5 subchapter. An ordinance under this paragraph may exceed the requirements of the
6 one- and 2-family dwelling code that relate to energy conservation in the
7 construction of new dwellings. Except as provided by s. 101.651, a county ordinance
8 shall apply in any city, village or town which has not enacted such ordinance.

9 **SECTION 17.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
10 is amended to read:

11 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
12 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
13 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
14 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,
15 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6)
16 and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12
17 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),
18 (35), (37), (37m), and (38), 120.14, 120.21 (3), 120.24, and 120.25 are applicable to a
19 1st class city school district and board.

20 **SECTION 18.** 120.24 of the statutes is created to read:

21 **120.24 Energy and environmental design standards for school district**
22 **facilities. (1)** In this section:

1 (a) "Major construction project" means a project for the construction of a
2 building containing at least 10,000 square feet of enclosed space.

3 (b) "LEED building rating system" means the rating system of the U.S. Green
4 Building Council designated as the leadership in energy and environmental design
5 system or its successor system as determined by the department.

6 (c) "LEED silver standard" means the LEED building rating system standard
7 designated by the U.S. Green Building Council as the silver standard in effect on the
8 effective date of this paragraph [LRB inserts date], or its successor standard as
9 determined by the department.

10 (2) Each school board shall ensure that the plans and specifications for each
11 major construction project conform at a minimum to the LEED silver standard of
12 construction.

13 (3) Upon request, the department shall pay necessary LEED registration and
14 certification fees for a major construction project on behalf of a school district. The
15 department shall pay the fees from the appropriation under s. 20.255 (2) (ed).

16 **SECTION 19.** 145.133 of the statutes is created to read:

17 **145.133 Graywater systems.** (1) In this section, "graywater" means
18 wastewater generated from the residential use of a clothes washer, sink, shower, or
19 bathtub.

****NOTE: Is this definition consistent with your intent?

20 (2) The department shall promulgate rules that establish standards for the
21 installation and use of graywater systems for the reuse of graywater within the
22 boundary of the property from which the graywater was generated.

****NOTE: Your instructions with regard to graywater systems referred to a number
of statute models from other states and organizations. If you would like this provision
to provide more specific guidance to the Department of Commerce about the

requirements of such systems, please let me know what you would like these requirements to include.

SECTION 20. Nonstatutory provisions.

(1) No later than the 30th day beginning after the effective date of this subsection, the Department of Administration shall file with the Legislative Reference Bureau a copy of the text of the standards specified in sections 13.48 (15) (b) 1. and 16.856 (1) ^{(d) and (e)} of the statutes, as created by this act. Upon receipt of the copy, the Legislative Reference Bureau shall publish in the Wisconsin Administrative Register a notice that the ~~text of the standards~~ are on file at the offices of the department and the bureau. ^(d)

SECTION 21. Initial applicability. ^{i. and 2.}

(1) The treatment of section 13.48 (2) ^(j) of the statutes first applies with respect to projects approved and agreements entered into on the effective date of this subsection. ⁽²⁾

(2) The treatment of section 16.856 ⁽²⁾ of the statutes first applies with respect to projects for which design is commenced on the effective date of this subsection.

(3) The treatment of section 16.84 (5) of the statutes, the renumbering and amendment of section 13.48 (15) of the statutes, and the creation of section 13.48 (15) (b) of the statutes first apply with respect to leases of real property by the state that are entered into, renewed, or extended on the effective date of this subsection.

(4) The treatment of section 120.24 of the statutes first applies with respect to projects for which design is commenced on the effective date of this subsection.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P2dn

JTK:cjs:jf

October 7, 2009

JWSA

~~Representative Molepske:~~

1. This draft now contains items (1) a. ~~and~~ b. i., ii., and iii. and d. and (2), (3), and (4) except as they apply to local governments other than schools. Other segments will follow shortly.

2. In the past quarter century, this state has generally not constructed office buildings. Instead, it has entered into a lease with option to purchase a customized building on a specific site which has then been constructed expressly for the state by a private developer. The state has then exercised its right to purchase the building at the time of initial occupancy. As a result, this draft, in proposed s. 13.48 (2) (jm), takes account not only of construction of office buildings by this state but also of construction of office buildings for this state by private developers who are operating under a state lease with option to purchase.

Jeffery T. Kuesel
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Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P3dn

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Representative Molepske:

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2. The instructions specified that this state must achieve compliance with LEED minimum performance standards for the operation and maintenance of existing buildings in 15% of its gross square footage of owned or leased conditioned office space *as of* January 1, 2015. This draft, in proposed s. 13.48 (2) (jm) 3., requires the Building Commission to apply all moneys available for its use under the Authorized State Building Program to achieve compliance with these standards for not less than 15% of the gross square footage of conditioned office space owned or leased by state agencies on January 1, 2015. The draft reads this way because there is no appropriation in the draft that will provide the necessary funding to guarantee full compliance *as of* January 1, 2015. Therefore, compliance is dependent upon legislative decisions to allocate sufficient moneys to achieve compliance in the subsequent biennial budget acts. Generally, there is money in the all-agency project funding allocation within the Authorized State Building Program that is potentially available to use for the purpose of achieving compliance. However, there are other demands on this money, much of which is used for critical repairs to old buildings. If you would like to guarantee full compliance by January 1, 2015, we would need to include sum sufficient funding in this draft.

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3. Application of the LEED performance standards for the operation and maintenance of existing buildings to leased facilities is problematic because commercial leases generally run for *ten* years and these leases are continually expiring. This means that state moneys may be invested in a facility that the state ceases to occupy within a relatively short period and the percentage of square footage in compliance with the standards could fluctuate up or down as new facilities are leased and existing leases are not renewed. On the other hand, if we don't apply the standards to leased facilities, we may be setting up a means to evade the standards by encouraging the transfer of state office space to lower-cost, noncompliant facilities.

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2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P3ins
JTK.....

INS 2A:

The bill also directs the Building Commission to apply all moneys available for its use under the Authorized State Building Program to achieve certification ^{as of} January 1, 2015, by the U.S. Green Building Council for not less than 15 percent of the gross square footage of conditioned office space owned or leased by state agencies, as determined by DOA, for meeting the minimum LEED performance standards for operation and maintenance of existing buildings.

INS 4-20:

3. The building commission shall apply all moneys available for its use under the ~~Authorized State Building Program~~ to achieve certification ^{as of January 1, 2015} by the U.S. Green Building Council for not less than 15 percent of the ^{total} gross square footage of conditioned space in office facilities ^{that are} owned or leased ^{on that date} ~~in the aggregate~~ by agencies, as determined by the department of administration under s. 16.856 (3), for meeting the minimum LEED performance standards for ^{the} operation and maintenance of existing buildings, as defined in s. 16.856 (1) ~~on January 1, 2015~~. In this subdivision, "conditioned space" means space that is designed to have controlled environmental conditions. ^{period stays}

INS 8-18:

²⁵
^{e e}
(b) "Minimum LEED performance standards for the operation and maintenance of existing buildings" means the performance standards ^{so} designated under the LEED building rating system, as prescribed by the U.S. Green Building

Council, in effect on the effective date of this paragraph [LRB inserts date] or ^{its} ~~its~~ ^{their} successor standards ^{as} determined by the department.

INS 9-3:

(3) The department shall maintain a current inventory of the location and gross square footage of all ~~enclosed~~ ^{life} office ~~space~~ ^{facilities} that is owned or leased by any agency for its use or the use of another agency. The inventory shall include for each facility information concerning the conditioned space in the facility ^{and} as defined in information concerning whether the facility or any portion thereof is certified or eligible for certification by the U.S. Green Building Council as meeting the minimum LEED performance standards for ^{the} operation and maintenance of existing buildings.

(4) The department shall maintain a current copy of the standards specified in s. 13.48 (15) (b) 1. and sub. (1) (c) and (c) on file in its offices and make copies of the standards available for public inspection and copying.

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as typed

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

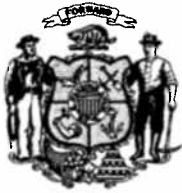
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Representative Molepske:

1. This draft now contains items (1) a., b. i., ii., and iii., c., and d. and (2), (3), and (4) except as they apply to local governments other than schools. Other segments will follow shortly.
2. The instructions specified that this state must achieve compliance with LEED minimum performance standards for the operation and maintenance of existing buildings in 15 percent of its gross square footage of owned or leased conditioned office space as of January 1, 2015. This draft, in proposed s. 13.48 (2) (jm) 3., requires the Building Commission to apply all moneys available for its use under the Authorized State Building Program to achieve compliance with these standards for not less than 15 percent of the gross square footage of conditioned office space owned or leased by state agencies on January 1, 2015. The draft reads this way because there is no appropriation in the draft that will provide the necessary funding to guarantee full compliance as of January 1, 2015. Therefore, compliance is dependent upon legislative decisions to allocate sufficient moneys to achieve compliance in the subsequent biennial budget acts. Generally, there is money in the all-agency project funding allocation within the Authorized State Building Program that is potentially available to use for the purpose of achieving compliance. However, there are other demands on this money, much of which is used for critical repairs to old buildings. If you would like to guarantee full compliance by January 1, 2015, we would need to include sum sufficient funding in this draft.
3. Application of the LEED performance standards for the operation and maintenance of existing buildings to leased facilities is problematic because commercial leases generally run for ten years and these leases are continually expiring. This means that state moneys may be invested in a facility that the state ceases to occupy within a relatively short period and the percentage of square footage in compliance with the standards could fluctuate up or down as new facilities are leased and existing leases are not renewed. On the other hand, if we don't apply the standards to leased facilities, we may be setting up a means to evade the standards by encouraging the transfer of state office space to lower-cost, noncompliant facilities.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778



NOTE: on PG
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3485/P3 *24*
JTK/RNK/PG:cjs:j *6*

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stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Page Cut

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1 AN ACT *to renumber and amend* 13.48 (15); *to amend* 16.72 (2) (e) (intro.),
2 16.75 (8) (a)1., 16.75 (10), 16.84 (5), 101.025 (4) (intro.), 101.027 (2), 101.027 (3)
3 (a) 1., 101.027 (3) (b) 1., 101.65 (1) (a) (intro.) and 119.04 (1); and *to create* 13.48
4 (2) (jm), 13.48 (15) (b), 16.84 (1m), 16.856, 20.255 (2) (ed), 101.12 (2m), 120.24
5 and 145.133 of the statutes; **relating to:** energy conservation standards for the
6 construction of certain buildings, energy and environmental design standards
7 for state office facilities, energy and environmental performance standards for
8 the operation and maintenance of state office facilities, energy and
9 environmental design standards for school district facilities, operation and
10 maintenance of state office facilities, leasing of state office facilities, standards
11 for the construction and use of graywater systems, granting rule-making
12 authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This analysis is not complete. A complete analysis will be provided in a later version.

Currently, with certain exceptions, the Department of Administration (DOA) must ensure that the specifications for each state construction project require the use of recovered and recycled materials to the extent that such use is technically and economically feasible. With certain exceptions, DOA must also prescribe and enforce energy efficiency standards for energy consuming equipment that is installed in connection with state construction projects. The standards must meet or exceed specified statutory standards. The Building Commission must also apply these standards when entering into certain leases on behalf of the state. Current law also requires the commission to employ a design for cogeneration of steam and electricity in state-owned central steam generating facilities unless the commission determines that such a design is not cost-effective and technically feasible. Currently, the commission must also ensure that state-operated steam generating facilities are designed to allow the use of biomass fuels and refuse-derived fuels to the greatest extent cost-effective and technically feasible. In addition, under current law, the commission is prohibited from approving the construction or major remodeling of or addition to any state building or structure unless the building or structure makes maximum practical use of passive solar energy system design elements and, unless not technically or economically feasible, incorporates an active solar energy system or photovoltaic solar energy system or other renewable energy system.

This bill directs DOA and the Building Commission to ensure that the plans and specifications for each project for the construction of any new state office facility containing at least 10,000 gross square feet of office space, or for the repair, renewal, renovation, or expansion of any existing facility for occupancy by any state entity if the facility contains at least 10,000 gross square feet of enclosed office space and the project affects more than 50 percent of the existing gross square feet of enclosed office space in the facility, conform at a minimum to the silver standard for energy and environmental design in construction projects as prescribed by the U.S. Green Building Council as of the day the bill becomes law. The bill also directs the commission to enforce compliance with the bill's requirements with respect to all new facilities containing at least 10,000 gross square feet of office space that are to be constructed and all existing facilities that are to be repaired, renewed, renovated, or expanded for occupancy by any state entity if the facilities contain at least 10,000 gross square feet of enclosed office space and the repair, renewal, renovation, or expansion affects more than 50 percent of the existing gross square feet of enclosed office space in the facilities, if the facilities are purchased by the state under a purchase agreement or the construction, repair, renewal, renovation, or expansion is performed for the state under a lease agreement with option to purchase.

The bill also directs the Building Commission to apply all moneys available for its use under the Authorized State Building Program to achieve certification as of January 1, 2015, by the U.S. Green Building Council for not less than 15 percent of the gross square footage of conditioned office space owned or leased by state agencies, as determined by DOA, for meeting the minimum LEED performance standards for operation and maintenance of existing buildings.

known
as
the
LEED
Silver
standard

JNS 2A ✓

Under current law, DOA has managerial responsibility for the operation and maintenance of state office buildings. With certain exceptions, DOA and other state agencies to which DOA delegates purchasing authority must write purchasing specifications that incorporate requirements for the purchase of products made from recycled and recovered materials if their use is technically and economically feasible. DOA and other agencies and certain state authorities making purchases must, to the extent practicable, make purchasing selections using these specifications. Specific requirements for recycled or recovered content also apply, without exception, to all paper purchases by these agencies and authorities. In addition, currently, each state agency that has building or energy management responsibilities must, to the extent cost-effective and technically feasible, rely upon energy systems that utilize fuels produced in this state.

This bill directs DOA to promulgate, apply, and enforce rules that require the environmentally sustainable operation and maintenance of all state office buildings. The rules must specifically address cleaning, purchasing, waste minimization and recycling, energy and water usage efficiency, and light pollution minimization. The rules supercede existing related requirements and unlike current requirements, apply without exception.

Currently, DOA has responsibility for the negotiation and administration of leases of real property by this state, except as otherwise provided by law. The Building Commission has authority to approve leases of real property by the state, except as otherwise provided by law. This bill directs DOA, before entering into any lease, or renewing or extending any lease, for improved real property to be used for office facilities, to require the prospective lessor to disclose the energy use intensity for the total property and the annual energy usage for the total property, calculated in accordance with Energy Star standards, as prescribed by the U.S. Environmental Protection Agency on the day the bill becomes law, and to verify and forward that information to the Building Commission. The bill also directs DOA to require other state agencies that have authority to enter into leases for improved real property to obtain and forward the same information to the Building Commission before entering into, or renewing or extending, any lease for real property to be used for office facilities. The bill then prohibits the Building Commission from approving any lease for improved real property to be used for office facilities unless DOA certifies to the commission that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards. In addition, the bill directs the Building Commission to require other state agencies that have authority to enter into leases for improved real property, to certify to the commission, before entering into, or renewing or extending, any lease for real property to be used for office facilities, that the energy use intensity for the total property and the annual energy usage for the total property conform to Energy Star standards.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.48 (2) (jm) of the statutes is created to read:

2 13.48 (2) (jm) 1. The building commission shall not approve the design or
3 construction of any project for the construction of any facility for a board, agency,
4 officer, department, commission, or body corporate, if the facility after construction
5 will contain at least 10,000 gross square feet of office space for occupancy by any such
6 entity, or for the repair, renewal, renovation, or expansion of any existing facility for
7 occupancy by any such entity if the facility contains at least 10,000 gross square feet
8 of enclosed office space and the project affects more than 50 percent of the existing
9 gross square feet of enclosed office space in the facility, regardless of the funding
10 source of the project, unless the department of administration certifies all of the following: (a) a-
11 project conforms at a minimum to the LEED silver standard, as defined in s. 16.856

12 (1) (d), for construction projects.

13 MW 13
4 14
15 2. The building commission shall not enter into an agreement for the purchase
16 of or for the lease of, or renewal of a lease of, with option to purchase, any facility that
17 is constructed or to be constructed for occupancy by any board, agency, officer,
18 department, commission, or body corporate, if the facility after construction will
19 contain at least 10,000 gross square feet of office space for occupancy by any such
20 entity, or any facility that is to be repaired, renewed, renovated, or expanded for
21 occupancy by any such entity if the facility contains at least 10,000 gross square feet
of enclosed office space and the repair, renewal, renovation, or expansion affects
more than 50 percent of the existing gross square feet of enclosed office space in the

1 facility, regardless of the funding source of the agreement, unless the department of
2 administration certifies that the facility conforms or will after construction, repair,
3 renewal, renovation or expansion conform *to all of the standards*
4 *specified in subd. 1.* ~~at a minimum to the LEED silver~~
5 ~~standard, as defined in s. 16.856 (1) (d), for construction projects.~~

6 3. The building commission shall apply all moneys available for its use under
7 the authorized state building program to achieve certification as of January 1, 2015,
8 by the U.S. Green Building Council for not less than 15 percent of the total gross
9 square footage of conditioned space in office facilities that are owned or leased by
10 agencies on that date, as determined by the department of administration under s.
11 16.856 (3), for meeting the minimum LEED performance standards for the operation
12 and maintenance of existing buildings, as defined in s. 16.856 (1) (e). In this
13 subdivision, "conditioned space" means space that is designed to have controlled
14 environmental conditions.

15 **SECTION 2.** 13.48 (15) of the statutes is renumbered 13.48 (15) (a) and amended
16 to read:

17 13.48 (15) (a) Subject to the requirements of par. (b) and s. 20.924 (1) (i), the
18 building commission shall have the authority to acquire leasehold interests in land
19 and buildings where such authority is not otherwise provided to an agency by law.

20 **SECTION 3.** 13.48 (15) (b) of the statutes is created to read:

21 13.48 (15) (b) 1. In this paragraph, "Energy Star standards" means the
22 standards prescribed by the U.S. Environmental Protection Agency under 42 USC
23 7403 (g) for energy usage in buildings that are in effect on the effective date of this
24 subdivision [LRB inserts date].

25 2. The building commission shall not approve the leasing of, or the renewal or
extension of any lease for, property for use as office facilities by this state unless the

SECTION 3

1 department of administration has certified to the commission that the energy use
2 intensity for the total property and the annual energy usage for the total property
3 conform to Energy Star standards. The commission shall also require other
4 agencies, as defined in s. 16.70 (1e), that have authority to lease real property, to
5 certify to the commission, before entering into, or renewing or extending, any lease
6 of property to be used for office facilities, that the energy use intensity for the total
7 property and the annual energy usage for the total property conform to Energy Star
8 standards.

9 **SECTION 4.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

10 16.72 (2) (e) (intro.) ~~In~~ Except as otherwise provided in this paragraph, in
11 writing the specifications under this subsection, the department and any other
12 designated purchasing agent under s. 16.71 (1) shall incorporate requirements for
13 the purchase of products made from recycled materials and recovered materials if
14 ~~their use is technically and economically feasible.~~ Each authority other than the
15 University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River
16 Remediation Authority, and the Health Insurance Risk-Sharing Plan Authority, in
17 writing specifications for purchasing by the authority, shall incorporate
18 requirements for the purchase of products made from recycled materials and
19 recovered materials if ~~their use is technically and economically feasible.~~ Except as
20 otherwise required in a rule promulgated under s. 16.84 (1m), the requirements
21 under this paragraph do not apply if the department, purchasing agent, or authority
22 determines that the use of products made from recycled and recovered materials
23 would not be technically and economically feasible. The specifications shall include
24 requirements for the purchase of the following materials:

25 **SECTION 5.** 16.75 (8) (a)1. of the statutes is amended to read:

1 16.75 (8) (a) 1. The Except as otherwise provided in this subdivision, the
2 department, any other designated purchasing agent under s. 16.71 (1), any agency
3 making purchases under s. 16.74, and each authority other than the University of
4 Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation
5 Authority, and the Health Insurance Risk-Sharing Plan Authority shall, ~~to the~~
6 ~~extent practicable~~, make purchasing selections using specifications developed under
7 s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and
8 recovered materials. Except as otherwise required in a rule promulgated under s.
9 16.84 (1m), the requirements under this subdivision do not apply to the extent that
10 the department, purchasing agent, agency, or authority determines that meeting
11 those requirements would not be practicable.

12 **SECTION 6.** 16.75 (10) of the statutes is amended to read:

13 16.75 (10) ~~An~~ Except as otherwise provided in this subsection, an agency that
14 has building, fleet or energy management responsibilities shall, ~~to the extent~~
15 ~~cost-effective and technically feasible~~, rely upon energy systems that utilize fuels
16 produced in this state. Except as otherwise required in a rule promulgated under s.
17 16.84 (1m), the requirements under this subsection do not apply to the extent that
18 the agency having responsibility for compliance with this subsection determines that
19 meeting those requirements would not be cost-effective or technically feasible. In
20 reviewing bids for the purchase of fuels or energy systems or equipment, the agency
21 shall purchase fuel or energy systems or equipment produced in this state if the cost
22 of the lowest responsible bid for such fuel or energy systems or equipment is no
23 greater than the lowest responsible bid for fuel or energy systems or equipment
24 produced outside of this state.

25 **SECTION 7.** 16.84 (1m) of the statutes is created to read:

1 16.84 (1m) Promulgate, apply, and enforce rules that require, without
2 exception, the environmentally sustainable operation and maintenance of all state
3 office buildings. The rules shall specifically address cleaning, purchasing, waste
4 minimization and recycling, energy and water usage efficiency, and light pollution
5 minimization.

6 **SECTION 8.** 16.84 (5) of the statutes is amended to read:

7 16.84 (5) Have responsibility, subject to approval of the governor, for all
8 functions relating to the leasing, acquisition, allocation and utilization of all real
9 property by the state, except where such responsibility is otherwise provided by the
10 statutes. In this connection, the Prior to entering into any lease, or renewing or
11 extending any lease, for property to be used for office facilities, the department shall
12 require the prospective lessor to disclose the energy use intensity for the total
13 property, measured on a square foot basis, and the annual energy usage for the total
14 property, calculated in accordance with Energy Star standards, as defined in s. 13.48
15 (15) (b), and shall verify and certify this information to the building commission
16 before the commission considers approval of the lease, or the renewal or extension
17 of the lease. The department shall also require other agencies, as defined in s. 16.70
18 (1e), that have authority to enter into leases for real property to obtain, verify, and
19 certify the same information to the commission before entering into any lease, or
20 renewing or extending any lease, for property to be used for office facilities. The
21 department shall, with the governor's approval, require physical consolidation of
22 office space utilized by any executive branch agency having fewer than 50 authorized
23 full-time equivalent positions with office space utilized by another executive branch
24 agency, whenever feasible. The department shall lease or acquire office space for
25 legislative offices or legislative service agencies at the direction of the joint

1 committee on legislative organization. In this subsection, “executive branch agency”
2 has the meaning given in s. 16.70 (4).

3 **SECTION 9.** 16.856 of the statutes is created to read:

4 **16.856 Energy and environmental design standards for state office**
5 **facilities. (1)** In this section:

6 (a) “Agency” has the meaning given in s. 16.70 (1e).

7 (b) “Major office construction project” means a project for the construction of
8 a state building that will, upon completion of the project, contain at least 10,000 gross
9 square feet of enclosed office space or for the repair, renewal, renovation, or
10 expansion of an existing state building containing at least 10,000 gross square feet
11 of enclosed office space that affects more than 50 percent of the existing gross square
12 feet of enclosed office space in that building.

13 (c) “LEED building rating system” means the rating system of the U.S. Green
14 Building Council designated as the leadership in energy and environmental design
15 system or its successor system as determined by the department.

16 (d) “LEED silver standard” means the LEED building rating system standard
17 designated by the U.S. Green Building Council as the silver standard in effect on the
18 effective date of this paragraph [LRB inserts date], or its successor standard as
19 determined by the department.

20 (e) “Minimum LEED performance standards for the operation and
21 maintenance of existing buildings” means the performance standards so designated
22 under the LEED building rating system, as prescribed by the U.S. Green Building
23 Council, in effect on the effective date of this paragraph [LRB inserts date], or
24 their successor standards as determined by the department.

INS 9-2

(2) The department shall ensure that the plans and specifications for each major office construction project conform at a minimum to the LEED silver standard of construction.

INS 10-3

(3) The department shall maintain a current inventory of the location and gross square footage of all office facilities that are owned or leased by any agency for its use or the use of another agency. The inventory shall include for each facility information concerning the conditioned space, as defined in s. 13.48 (2) (jm) 3., in the facility and whether the facility or any portion thereof is certified or eligible for certification by the U.S. Green Building Council as meeting the minimum LEED performance standards for the operation and maintenance of existing buildings.

(4) The department shall maintain a current copy of the standards specified in s. 13.48 (15) (b) 1. and sub. (1) (d) and (e) on file in its offices and make copies of the standards available for public inspection and copying.

SECTION 10. 20.255 (2) (ed) of the statutes is created to read:

20.255 (2) (ed) *LEED fees*. A sum sufficient to pay LEED registration and certification fees on behalf of school districts under s. 120.24.

SECTION 11. 101.025 (4) (intro.) of the statutes is amended to read:

101.025 (4) (intro.) For ventilation systems in public buildings and places of employment, the department shall ~~adopt~~ promulgate rules setting that incorporate standard 62.1-2007 of the American Society of Heating, Refrigerating and Air Conditioning Engineers and that set all of the following:

SECTION 12. 101.027 (2) of the statutes is amended to read:

101.027 (2) The department shall review the energy conservation code and shall promulgate rules that change the requirements of the energy conservation code to improve energy conservation. No rule may be promulgated that has not taken into

1 account the cost of the energy conservation code requirement, as changed by the rule,
2 in relationship to the benefits derived from that requirement, including the
3 reasonably foreseeable economic and environmental benefits to the state from any
4 reduction in the use of imported fossil fuel. The proposed rules changing the energy
5 conservation code shall be submitted to the legislature in the manner provided under
6 s. 227.19. In conducting a review under this subsection, the department shall
7 ~~consider incorporating~~ incorporate, into the energy conservation code, design
8 requirements from standard 90.1-2007 of the most current national energy
9 ~~efficiency design standards, including the International Energy Conservation Code~~
10 ~~or an energy efficiency code other than the International Energy Conservation Code~~
11 ~~if that energy efficiency code is used to prescribe design requirements for the purpose~~
12 ~~of conserving energy in buildings and is generally accepted and used by engineers~~
13 ~~and the construction industry~~ American Society of Heating, Refrigerating and Air
14 Conditioning Engineers.

15 **SECTION 13.** 101.027 (3) (a) 1. of the statutes is amended to read:

16 101.027 (3) (a) 1. A revision of standard 90.1-2007 of the International Energy
17 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
18 Engineers is published.

19 **SECTION 14.** 101.027 (3) (b) 1. of the statutes is amended to read:

20 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
21 revision of standard 90.1-2007 of the International Energy Conservation Code
22 American Society of Heating, Refrigerating and Air Conditioning Engineers is
23 published, the department shall complete its review of the energy conservation code,
24 as defined in sub. (1), and submit to the legislature proposed rules changing the
25 energy conservation code, as defined in sub. (1), no later than 18 months after the

1 date on which the revision of standard 90.1-2007 of the International Energy
2 Conservation Code American Society of Heating, Refrigerating and Air Conditioning
3 Engineers published.

4 **SECTION 15.** 101.12 (2m) of the statutes is created to read:

5 101.12 (2m) The department may not approve or accept essential drawings,
6 calculations, specifications, or plans for public buildings, public structures, or places
7 of employment unless the drawings, calculations, specifications, and plans conform
8 at a minimum to standard 189 of the American Society of Heating, Refrigeration and
9 Air Conditioning Engineers.

***NOTE: Because standard 189 is not yet final, the reference to this standard in
this provision does not include a publication year. This raises a constitutional question
about whether the reference to a nonfinal standard of a private organization is an
improper delegation of legislative authority to that private organization.

10 **SECTION 16.** 101.65 (1) (a) (intro.) of the statutes is amended to read:

11 101.65 (1) (a) (intro.) Exercise jurisdiction over the construction and inspection
12 of new dwellings by passage of ordinances, provided such ordinances meet the
13 requirements of the one- and 2-family dwelling code adopted in accordance with this
14 subchapter. An ordinance under this paragraph may exceed the requirements of the
15 one- and 2-family dwelling code that relate to energy conservation in the
16 construction of new dwellings. Except as provided by s. 101.651, a county ordinance
17 shall apply in any city, village or town which has not enacted such ordinance.

18 **SECTION 17.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
19 is amended to read:

20 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
21 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
22 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
23 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,

1 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6)
2 and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12
3 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),
4 (35), (37), (37m), and (38), 120.14, 120.21 (3), 120.24, and 120.25 are applicable to a
5 1st class city school district and board.

6 **SECTION 18.** 120.24 of the statutes is created to read:

7 **120.24 Energy and environmental design standards for school district**
8 **facilities. (1)** In this section:

9 (a) "Major construction project" means a project for the construction of a
10 building containing at least 10,000 square feet of enclosed space.

11 (b) "LEED building rating system" means the rating system of the U.S. Green
12 Building Council designated as the leadership in energy and environmental design
13 system or its successor system as determined by the department.

14 (c) "LEED silver standard" means the LEED building rating system standard
15 designated by the U.S. Green Building Council as the silver standard in effect on the
16 effective date of this paragraph [LRB inserts date], or its successor standard as
17 determined by the department.

18 (2) Each school board shall ensure that the plans and specifications for each
19 major construction project conform at a minimum to the LEED silver standard of
20 construction.

21 (3) Upon request, the department shall pay necessary LEED registration and
22 certification fees for a major construction project on behalf of a school district. The
23 department shall pay the fees from the appropriation under s. 20.255 (2) (ed).

24 **SECTION 19.** 145.133 of the statutes is created to read:

1 **145.133 Graywater systems.** (1) In this section, "graywater" means
2 wastewater generated from the residential use of a clothes washer, sink, shower, or
3 bathtub.

****NOTE: Is this definition consistent with your intent?

4 (2) The department shall promulgate rules that establish standards for the
5 installation and use of graywater systems for the reuse of graywater within the
6 boundary of the property from which the graywater was generated.

****NOTE: Your instructions with regard to graywater systems referred to a number
of statute models from other states and organizations. If you would like this provision
to provide more specific guidance to the Department of Commerce about the
requirements of such systems, please let me know what you would like these
requirements to include.

7 **SECTION 20. Nonstatutory provisions.**

8 (1) No later than the 30th day beginning after the effective date of this
9 subsection, the Department of Administration shall file with the Legislative
10 Reference Bureau a copy of the text of the standards specified in sections 13.48 (15)

11 (b) 1. and 16.856 (1) (d) and (e) of the statutes, as created by this act. Upon receipt
12 of the copy, the Legislative Reference Bureau shall publish in the Wisconsin
13 Administrative Register a notice that the text of the standards are on file at the
14 offices of the department and the bureau.

15 **SECTION 21. Initial applicability.**

16 (1) The treatment of section 13.48 (2) (jm) 1. and 2. of the statutes first applies
17 with respect to projects approved and agreements entered into on the effective date
18 of this subsection.

19 (2) The treatment of section 16.856 (2) of the statutes first applies with respect
20 to projects for which design is commenced on the effective date of this subsection.

(3) The treatment of section 16.84 (5) of the statutes, the renumbering and amendment of section 13.48 (15) of the statutes, and the creation of section 13.48 (15) (b) of the statutes first apply with respect to leases of real property by the state that are entered into, renewed, or extended on the effective date of this subsection.

(4) The treatment of section 120.24 of the statutes first applies with respect to projects for which design is commenced on the effective date of this subsection.

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P4ins
JTK.....

INS 2A:

no 9
The bill also directs DOA and the Building Commission to ensure that each such office facility conforms to specific standards specified in the bill that are derived from various national and international building codes as of specified dates for energy performance, use of recycled and recovered materials, reuse of demolition materials, ventilation components, indoor air quality performance, and water ~~level~~ usage. ✓

INS 4-13:

b. That the energy performance for the project is at least 30 percent better than the performance under standard 90.1-2007 of the American Society of Heating, Refrigerating and Air Conditioning Engineers, as documented by energy modeling and certified in writing by the chief engineer for the project.

c. That the construction materials for the project are at least 75 percent derived from recycled material, as defined in s. 16.70 (11), or recovered material, as defined in s. 16.70 (12), and at least 75 percent of the demolition materials for any demolition required to undertake the project are used by an agency, as defined in s. 16.60 (1e), or transferred to a third party in recycled or recovered form as a part of another construction project.

d. That the ventilation components for the project are strictly in conformity with standard 62.1-2004 of the American Society of Heating, Refrigerating and Air Conditioning Engineers, and the chief engineer for the project certifies in writing that no exemptions from strict conformity with that standard have been authorized.

e. That the project has an indoor air quality management plan that addresses ~~protection of~~ ^{adherence to} the heating, ventilation, and air conditioning performance standards, ^{for the project} source control that ensures use of low emission materials and finishes pathway



interruption to prevent migration of contaminants during the construction process, housekeeping procedures to prevent the spread and growth of contaminants during the construction process, and construction activity scheduling to prevent cross contamination of materials used in the project during the construction process. The plan shall be consistent at a minimum with standards for air quality promulgated in 2007 by the Sheet Metal and Air Conditioning Contractors' National Association.

f. That the project upon completion will attain a level of water use no greater than 30 percent below the water use baseline, as determined by the department of administration assuming that 100 percent of the indoor plumbing fixtures used in the project are in compliance with the strictest applicable standard under the Uniform Plumbing Codes - 2006 promulgated by the International Association of Plumbing and Mechanical Officials or the International Plumbing Codes - 2006 fixture and fitting performance requirements promulgated by the International Code Council, as determined by the department.

INS 9-2:

[#] [^] [✓]
SECTION 1. 16.85 (3m) of the statutes is created to read:

16.85 **(3m)** To appoint or approve the appointment of a chief engineer for each major office construction project, as defined in s. 16.856 [✓] (1) (b).

INS 10-3:

[✓] ^{use and disposal of}
[✓] ^{construction of}
[✓] ^{usage}
[✓]
(no #) The department shall also ensure that the energy performance, materials, ventilation components, indoor air quality performance and water use

level for each major ^{office} construction project conform to the standards specified s. 13.48

(2) (jm) 1.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3485/P3dn

JTK:cjs:ph

stays

from
/P3dn

~~October 16, 2009~~

today's
date

Representative Molepske:

1. This draft now contains ^{call} items ~~(1) a., b. i., ii., and iii., c., and d. and (2), (3), and (4)~~ except as they apply to local governments other than schools. Other segments will follow shortly.

~~2. The instructions specified that this state must achieve compliance with LEED minimum performance standards for the operation and maintenance of existing buildings in 15 percent of its gross square footage of owned or leased conditioned office space as of January 1, 2015. This draft, in proposed s. 13.48 (2) (jm) 3., requires the Building Commission to apply all moneys available for its use under the Authorized State Building Program to achieve compliance with these standards for not less than 15 percent of the gross square footage of conditioned office space owned or leased by state agencies on January 1, 2015. The draft reads this way because there is no appropriation in the draft that will provide the necessary funding to guarantee full compliance as of January 1, 2015. Therefore, compliance is dependent upon legislative decisions to allocate sufficient moneys to achieve compliance in the subsequent biennial budget acts. Generally, there is money in the all-agency project funding allocation within the Authorized State Building Program that is potentially available to use for the purpose of achieving compliance. However, there are other demands on this money, much of which is used for critical repairs to old buildings. If you would like to guarantee full compliance by January 1, 2015, we would need to include sum sufficient funding in this draft.~~

~~3. Application of the LEED performance standards for the operation and maintenance of existing buildings to leased facilities is problematic because commercial leases generally run for ten years and these leases are continually expiring. This means that state moneys may be invested in a facility that the state ceases to occupy within a relatively short period and the percentage of square footage in compliance with the standards could fluctuate up or down as new facilities are leased and existing leases are not renewed. On the other hand, if we don't apply the standards to leased facilities, we may be setting up a means to evade the standards by encouraging the transfer of state office space to lower-cost, noncompliant facilities.~~

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3485/P4dni
JTK.....

WNS DIA

2. Concerning the performance standard for water use at certain state office facilities, the instructions specified that water use shall be in compliance with either the applicable standard under the Uniform Plumbing Codes - 2006 or the International Plumbing Codes - 2006. The draft specifies in proposed s. 13.48 (2) (jm) 1. f. that the level of water use must be in compliance with the strictest of these applicable standards, as determined by the DOA. If this is not consistent with your intent, we can adjust the draft. In any event, the draft must be clear as to which of the codes applies to which situation, or, if it is consistent with your intent, that DOA is authorized to comply with either of the codes in its discretion. ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3485/P4dn
JTK:cjs:jf

October 22, 2009

Representative Molepske:

1. This draft now contains all items except as they apply to local governments other than schools. Other segments will follow shortly.
2. Concerning the performance standard for water use at certain state office facilities, the instructions specified that water use shall be in compliance with either the applicable standard under the Uniform Plumbing Codes - 2006 or the International Plumbing Codes - 2006. The draft specifies in proposed s. 13.48 (2) (jm) 1. f. that the level of water use must be in compliance with the strictest of these applicable standards, as determined by the DOA. If this is not consistent with your intent, we can adjust the draft. In any event, the draft must be clear as to which of the codes applies to which situation, or, if it is consistent with your intent, that DOA is authorized to comply with either of the codes in its discretion.

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